

associated Public Notice(s). Applications other than initial applications for a GWCS license must also comply with all technical requirements of the rules governing the GWCS (see subparts C and D as appropriate).

§§ 26.309–26.320 [Reserved]

§ 26.321 Mutually exclusive applications.

(a) The Commission will consider applications to be mutually exclusive if their conflicts are such that the grant of one application would effectively preclude by reason of harmful electrical interference, or other practical reason, the grant of one or more of the other applications. The Commission will presume “harmful electrical interference” to mean interference which would result in a material impairment to service rendered to the public despite full cooperation in good faith by all applicants or parties to achieve reasonable technical adjustments which would avoid electrical conflict.

(b) Mutually exclusive applications filed on Form 175 for the initial provision of GWCS service are subject to competitive bidding in accordance with the procedures in subpart F of this part and in part 1, subpart Q of this chapter.

(c) An application will be entitled to comparative consideration with one or more conflicting applications only if the Commission determines that such comparative consideration will serve the public interest.

§ 26.322 [Reserved]

§ 26.323 Post-action divestitures.

Any parties sharing a common non-controlling ownership interests who aggregate more GWCS spectrum among them than a single entity is entitled to hold will be permitted to divest sufficient properties within 90 days of the license grant to come into compliance with the spectrum aggregation limits as follows:

(a) The GWCS applicant shall submit electronically via the ULS, a signed statement with its long-form application (FCC Form 601) stating that sufficient properties will be divested within ninety days of the license grant. If the licensee is otherwise qualified, the Commission will grant the applications

subject to a condition that the licensee come into compliance with the GWCS spectrum aggregation limits within 90 days of grant of the license.

(b) Within 90 days of license grant, the licensee must certify that the applicant and all parties to the application have come into compliance with the GWCS spectrum aggregation limits. If the licensee fails to submit the certification within 90 days, the Commission will immediately cancel all broadband GWCS licenses won by the applicant, impose the default payment and, based on the facts presented, take any other action it deems appropriate. Divestiture may be an interim trustee if a buyer has not been secured in the required time frame, as long as the applicant has no interest in or control of the trustee, and the trustee may dispose of the property as it sees fit. In no event may the trustee retain the property for longer than six months from grant of license.

[60 FR 40719, Aug. 9, 1995, as amended at 63 FR 68954, Dec. 14, 1998]

§§ 26.324–26.326 [Reserved]

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